

SENATE BILL 42

M3
SB 464/14 – EHE

5lr0587

By: **Senator Norman**

Introduced and read first time: January 21, 2015

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Stormwater Management – Watershed Protection and Restoration Program –**
3 **Repeal**

4 FOR the purpose of repealing the requirement that on or before a certain date a county or
5 municipality subject to a certain municipal stormwater permit adopt and implement
6 laws or ordinances to establish a watershed protection and restoration program;
7 repealing the exemption of a county or municipality from certain requirements if the
8 county or municipality has enacted and implemented a certain system of charges in
9 a certain manner on or before a certain date; repealing the requirement that a county
10 or municipality maintain or administer a local watershed protection and restoration
11 fund in accordance with certain provisions of law; repealing the requirement that a
12 county or municipality establish and annually collect a stormwater remediation fee
13 in accordance with certain provisions of law; repealing the requirement that a county
14 or municipality establish certain policies and procedures to reduce a certain
15 stormwater remediation fee to account for certain measures; repealing certain
16 provisions of law relating to the prohibition against the assessment of a stormwater
17 remediation fee on a property by both a county and a municipality; repealing the
18 requirement that a county or municipality determine the method, frequency, and
19 enforcement of the collection of the stormwater remediation fee; repealing the
20 requirement that certain money be deposited in a local watershed protection and
21 restoration fund; repealing certain provisions of law relating to the uses of money in
22 a local watershed protection and restoration fund; repealing the requirement that a
23 county or municipality make publicly available a certain report beginning on a
24 certain date; repealing the requirement that a county or municipality establish a
25 certain hardship exemption program; repealing the authorization of the Department
26 of the Environment to adopt certain regulations; altering the definition of a certain
27 term; repealing the definition of a certain term; and generally relating to stormwater
28 management in the State.

29 BY repealing and reenacting, with amendments,
30 Article – Environment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 4–201.1
2 Annotated Code of Maryland
3 (2013 Replacement Volume and 2014 Supplement)

4 BY repealing
5 Article – Environment
6 Section 4–202.1
7 Annotated Code of Maryland
8 (2013 Replacement Volume and 2014 Supplement)

9 Preamble

10 WHEREAS, The State has required 10 affected counties to impose a taxing regime,
11 commonly referred to as the “rain tax”, with the amounts to be determined in the sole
12 discretion of each county; and

13 WHEREAS, Under the State mandate, the affected counties have taken disparate
14 approaches to implementing the requirements, imposing a variety of rates and categorizing
15 properties differently; and

16 WHEREAS, Under other provisions of law, each affected county is authorized to
17 impose alternatives to the taxing regime mandated by the State to provide financial
18 assistance for the implementation of local stormwater management plans; now, therefore,

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

21 **Article – Environment**

22 4–201.1.

23 (a) In this subtitle the following words have the meanings indicated.

24 (b) “Environmental site design” means using small-scale stormwater
25 management practices, nonstructural techniques, and better site planning to mimic
26 natural hydrologic runoff characteristics and minimize the impact of land development on
27 water resources.

28 (c) “Environmental site design” includes:

29 (1) Optimizing conservation of natural features, such as drainage patterns,
30 soils, and vegetation;

31 (2) Minimizing use of impervious surfaces, **SUCH AS PAVED SURFACES,**
32 **CONCRETE CHANNELS, ROOFS, AND PIPES;**

1 (3) Slowing down runoff to maintain discharge timing and to increase
2 infiltration and evapotranspiration; and

3 (4) Using other nonstructural practices or innovative stormwater
4 management technologies approved by the Department.

5 [(d) (1) “Impervious surface” means a surface that does not allow stormwater
6 to infiltrate into the ground.

7 (2) “Impervious surface” includes rooftops, driveways, sidewalks, or
8 pavement.]

9 [4–202.1.

10 (a) (1) Except as provided in paragraph (2) of this subsection, this section
11 applies to a county or municipality that is subject to a national pollutant discharge
12 elimination system Phase I municipal separate storm sewer system permit.

13 (2) This section does not apply to a county or municipality that, on or before
14 July 1, 2012, has enacted and implemented a system of charges under § 4–204 of this
15 subtitle for the purpose of funding a watershed protection and restoration program, or
16 similar program, in a manner consistent with the requirements of this section.

17 (b) On or before July 1, 2013, a county or municipality shall adopt and implement
18 local laws or ordinances necessary to establish a watershed protection and restoration
19 program.

20 (c) A watershed protection and restoration program established under this
21 section shall include:

22 (1) A stormwater remediation fee; and

23 (2) A local watershed protection and restoration fund.

24 (d) (1) A county or municipality shall maintain or administer a local
25 watershed protection and restoration fund in accordance with this section.

26 (2) The purpose of a local watershed protection and restoration fund is to
27 provide financial assistance for the implementation of local stormwater management plans
28 through stormwater management practices and stream and wetland restoration activities.

29 (e) (1) Except as provided in paragraph (2) of this subsection and subsection
30 (f) of this section, a county or municipality shall establish and annually collect a stormwater
31 remediation fee from owners of property located within the county or municipality in
32 accordance with this section.

1 (2) Property owned by the State, a unit of State government, a county, a
2 municipality, or a regularly organized volunteer fire department that is used for public
3 purposes may not be charged a stormwater remediation fee under this section.

4 (3) (i) A county or municipality shall set a stormwater remediation fee
5 for property in an amount that is based on the share of stormwater management services
6 related to the property and provided by the county or municipality.

7 (ii) A county or municipality may set a stormwater remediation fee
8 under this paragraph based on:

9 1. A flat rate;

10 2. An amount that is graduated, based on the amount of
11 impervious surface on each property; or

12 3. Another method of calculation selected by the county or
13 municipality.

14 (4) A stormwater remediation fee established under this section is separate
15 from any charges that a county or municipality establishes related to stormwater
16 management for new developments under § 4–204 of this subtitle, including fees for
17 permitting, review of stormwater management plans, inspections, or monitoring.

18 (f) (1) A county or municipality shall establish policies and procedures,
19 approved by the Department, to reduce any portion of a stormwater remediation fee
20 established under subsection (e) of this section to account for on–site and off–site systems,
21 facilities, services, or activities that reduce the quantity or improve the quality of
22 stormwater discharged from the property.

23 (2) The policies and procedures established by a county or municipality
24 under paragraph (1) of this subsection shall include:

25 (i) Guidelines for determining which on–site systems, facilities,
26 services, or activities may be the basis for a fee reduction, including guidelines:

27 1. Relating to properties with existing advanced stormwater
28 best management practices;

29 2. Relating to agricultural activities or facilities that are
30 otherwise exempted from stormwater management requirements by the county or
31 municipality; and

32 3. That account for the costs of, and the level of treatment
33 provided by, stormwater management facilities that are funded and maintained by a
34 property owner;

1 (ii) The method for calculating the amount of a fee reduction; and

2 (iii) Procedures for monitoring and verifying the effectiveness of the
3 on-site systems, facilities, services, or activities in reducing the quantity or improving the
4 quality of stormwater discharged from the property.

5 (3) For the purpose of monitoring and verifying the effectiveness of on-site
6 systems, facilities, services, or activities under paragraph (2)(iii) of this subsection, a county
7 or municipality may:

8 (i) Conduct on-site inspections;

9 (ii) Authorize a third party, certified by the Department, to conduct
10 on-site inspections on behalf of the county or municipality; or

11 (iii) Require a property owner to hire a third party, certified by the
12 Department, to conduct an on-site inspection and provide to the county or municipality the
13 results of the inspection and any other information required by the county or municipality.

14 (g) (1) A property may not be assessed a stormwater remediation fee by both
15 a county and a municipality.

16 (2) (i) Before a county may impose a stormwater remediation fee on a
17 property located within a municipality, the county shall:

18 1. Notify the municipality of the county's intent to impose a
19 stormwater remediation fee on property located within the municipality; and

20 2. Provide the municipality reasonable time to pass an
21 ordinance authorizing the imposition of a municipal stormwater remediation fee instead of
22 a county stormwater remediation fee.

23 (ii) If a county currently imposes a stormwater remediation fee on
24 property located within a municipality and the municipality decides to implement its own
25 stormwater remediation fee under this section or § 4-204 of this subtitle, the municipality
26 shall:

27 1. Notify the county of the municipality's intent to impose its
28 own stormwater remediation fee; and

29 2. Provide the county reasonable time to discontinue the
30 collection of the county stormwater remediation fee within the municipality before the
31 municipality's stormwater remediation fee becomes effective.

32 (3) A county or municipality shall establish a procedure for a property
33 owner to appeal a stormwater remediation fee imposed under this section.

1 (h) (1) A county or municipality shall determine the method, frequency, and
2 enforcement of the collection of the stormwater remediation fee.

3 (2) A county or municipality shall deposit the stormwater remediation fees
4 it collects into its local watershed protection and restoration fund.

5 (3) There shall be deposited in a local watershed protection and restoration
6 fund:

7 (i) Funds received from the stormwater remediation fee;

8 (ii) Interest or other income earned on the investment of money in
9 the local watershed protection and restoration fund; and

10 (iii) Any additional money made available from any sources for the
11 purposes for which the local watershed protection and restoration fund has been
12 established.

13 (4) Subject to paragraph (5) of this subsection, a county or municipality
14 shall use the money in its local watershed protection and restoration fund for the following
15 purposes only:

16 (i) Capital improvements for stormwater management, including
17 stream and wetland restoration projects;

18 (ii) Operation and maintenance of stormwater management systems
19 and facilities;

20 (iii) Public education and outreach relating to stormwater
21 management or stream and wetland restoration;

22 (iv) Stormwater management planning, including:

23 1. Mapping and assessment of impervious surfaces; and

24 2. Monitoring, inspection, and enforcement activities to carry
25 out the purposes of the watershed protection and restoration fund;

26 (v) To the extent that fees imposed under § 4–204 of this subtitle are
27 deposited into the local watershed protection and restoration fund, review of stormwater
28 management plans and permit applications for new development;

29 (vi) Grants to nonprofit organizations for up to 100% of a project's
30 costs for watershed restoration and rehabilitation projects relating to:

31 1. Planning, design, and construction of stormwater
32 management practices;

1 2. Stream and wetland restoration; and

2 3. Public education and outreach related to stormwater
3 management or stream and wetland restoration; and

4 (vii) Reasonable costs necessary to administer the local watershed
5 protection and restoration fund.

6 (5) A county or municipality may use its local watershed protection and
7 restoration fund as an environmental fund, and may deposit to and expend from the fund
8 additional money made available from other sources and dedicated to environmental uses,
9 provided that the funds received from the stormwater remediation fee are expended only
10 for the purposes authorized under paragraph (4) of this subsection.

11 (6) The funds disbursed under this subsection are intended to be in
12 addition to any existing State or local expenditures for stormwater management.

13 (7) Money in a local watershed protection and restoration fund may not
14 revert or be transferred to the general fund of any county or municipality.

15 (i) Beginning July 1, 2014, and every 2 years thereafter, a county or municipality
16 shall make publicly available a report on:

17 (1) The number of properties subject to a stormwater remediation fee;

18 (2) The amount of money deposited into the watershed protection and
19 restoration fund over the previous 2 fiscal years; and

20 (3) The percentage of funds in the local watershed protection and
21 restoration fund spent on each of the purposes provided in subsection (h)(4) of this section.

22 (j) (1) A county or municipality shall establish a program to exempt from the
23 requirements of this section a property able to demonstrate substantial financial hardship
24 as a result of the stormwater remediation fee.

25 (2) A county or municipality may establish a separate hardship exemption
26 program or include a hardship exemption as part of a system of offsets established under
27 subsection (f)(1) of this section.

28 (k) The Department may adopt regulations to implement and enforce this
29 section.]

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
31 1, 2015.